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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19103-2029

Mayor and City Council of Baltimore	:	Proceedings Pursuant To
PWS ID No. MD0300002	:	Section 1414(g) of the Safe Drinking
	:	Water Act, as amended,
Respondent	:	42 U.S.C. § 300g-3(g)
	:	
	:	Docket No. SDWA-03-2010-123-DS
	:	

ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT

STATUTORY AUTHORITY

1. The following FINDINGS are made and ORDER FOR COMPLIANCE issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or "the Agency") by Section 1414(g) of the Federal Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(g). The Administrator of EPA has delegated the authority to take these actions to the Regional Administrator of EPA, Region III, who has redelegated these authorities to the Director, Water Protection Division.
2. EPA and the Mayor and City Council of the City of Baltimore ("the City") (collectively "the Parties") agree that resolution of this matter without litigation is in the public interest. The City consents to the issuance of this Administrative Order on Consent and agrees to perform all actions required by its terms and conditions.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

3. The City of Baltimore is the owner and operator of a public water system (PWS), PWS Identification Number MD0300002 ("System").

4. The City is a "person" as defined by Section 1401(12) of the SDWA, 42 U.S.C. §§ 300f (12) and 40 C.F.R. § 141.2. The System is a "public water system" and a "community water system" as defined respectively by Sections 1401(4) and 1401(15) of the SDWA, 42 U.S.C. §§ 300f (4) and 300f (15), and 40 C.F.R. § 141.2.
5. 40 C.F.R. § 141.700 et seq. is the Long Term 2 Enhanced Surface Water Treatment Rule ("LT2"), which includes 40 C.F.R. §141.714 (c).
6. 40 C.F.R. §141.714 (c) provides:
 - (c) Systems must meet the conditions of paragraph (c)(1) or (2) of this section for each uncovered finished water storage facility or be in compliance with a State-approved schedule to meet these conditions no later than April 1, 2009.
 - (1) System must cover any uncovered finished water storage facility.
 - (2) System must treat the discharge from the uncovered finished water storage facility to the distribution system to achieve inactivation and/or removal of at least 4-log virus, 3-log *Giardia lamblia*, and 2-log *Cryptosporidium* using a protocol approved by the State.
7. Pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2, until a state acquires primary enforcement authority for the Public Water Supply Supervision ("PWSS") Program and for revisions to the Program, EPA is the "State" for the purposes of implementing 40 C.F.R. Part 141 and the PWSS Program and revisions in the State. When a state acquires primary enforcement authority for the PWSS Program and revisions to the Program, EPA retains authority to enforce the PWSS Program and revisions in the state pursuant to Section 1414 of the SDWA, 42 U.S.C. § 300g-3.
8. The City of Baltimore denies that it willfully or negligently violated any provision of the LT2. The City further contends that at all times it has acted in good faith in a sincere effort to comply with the LT2.
9. For the purposes of this Administrative Order on Consent ("AOC"), the City does not contest EPA's jurisdiction and authority to issue and enforce any part of this AOC.
10. The City's public water system is a community water system that serves a population of approximately 1,800,000 people.

11. The City notified the Maryland Department of the Environment (MDE) on March 19, 2008, that the System had five (5) uncovered finished water reservoirs.
12. On January 12, 2009, the City submitted a schedule to the Maryland Department of the Environment ("MDE"). The schedule set out the dates by which the City would bring its five open finished drinking water reservoirs into compliance with 40 C.F.R. § 141.714 (c).
13. On April 1, 2009, MDE approved the City's revised schedule ("Schedule"). The Schedule provided deadlines for the City for covering and/or providing treatment for its uncovered finished water storage facilities by December 31, 2018.
14. The City contends that it did not execute an enforceable agreement with MDE that incorporated the approved schedule by April 1, 2009, because the City did not receive the final proposed settlement agreement ("Settlement Agreement") from MDE until May 8, 2009.
15. As of April 1, 2009, MDE did not have primacy for LT2 and also did not have the authority to enforce a State approved schedule pursuant to the Federal SDWA.
16. EPA sent a Notice of Violation and Request for Information ("NOV"), dated July 20, 2009, to the City. In the Notice of Violation EPA stated that it found that the City was in violation of 40 C.F.R. § 141.714(c) because the City had not covered its five uncovered reservoirs, installed treatment for the discharge from the uncovered reservoirs, or been in compliance with a State-approved schedule to cover them by the April 1, 2009 deadline.
17. In response to EPA's Notice of Violation the City contended that it had not violated 40 C.F.R. § 141.714(c) because MDE had approved the schedule for covering and/or installing treatment facilities at its open drinking water reservoirs by the April 1, 2009 deadline in accordance with 40 C.F.R. § 141.714 (c).
18. On September 2, 2009, the City and MDE executed the Settlement Agreement, which incorporated the Schedule.
19. As of September 2, 2009, MDE did not have primacy for LT2 and also did not have the authority to enforce a State approved schedule pursuant to the Federal SDWA.

20. According to the Schedule, the City has until December 31, 2018, to cover the City's five reservoirs and/or install treatment facilities for the reservoirs.
21. As of the effective date of this AOC, the City contends it is in compliance with the Schedule in the Settlement Agreement.
22. While the City is moving forward with the design and planning for covering the City's five reservoirs and installing treatment facilities, as of the effective date of this AOC, the reservoirs remain uncovered and City has not yet installed treatment facilities.
23. Because the City did not (A) cover its finished water storage reservoirs, (B) treat the discharge from the reservoirs to the distribution system, and (C) was not subject to an enforceable State approved compliance schedule by April 1, 2009, the City has been in violation with the requirements of 40 C.F.R. § 141.714(c).
24. 40 C.F.R. § 141.203(b)(1) requires owners and operators of public water systems, such as the City, to provide public notification of violations of 40 C.F.R. § 141.714(c).

ORDER ON CONSENT

Therefore, EPA ORDERS and Respondent consents to conduct the following activities:

25. The City shall meet all start and finish dates in the Schedule attached as Attachment 1 for each of the five uncovered finished water reservoirs.
26. The City shall submit written reports within ten (10) days after the end of each calendar quarter to EPA via electronic mail or at the address listed in the following paragraph. The reports shall describe the City's progress on the installation of treatment, replacement, or coverage of its five uncovered finished water reservoirs. The City shall submit the first progress report no later than ten (10) days after the end of the calendar quarter following the effective date of this AOC. The City shall continue submitting such reports until EPA closes out the AOC by written correspondence to the Respondent. Such a report shall describe, in detail:

- 26.1. The status of each of the five reservoirs in meeting all the deadlines in Attachment 1, including the status of the City's work on the study, design, public notification of the proposed design, and construction of each of the covers and treatment facilities.
- 26.2. The events which might delay compliance with this AOC, including:
 - 26.2.1. The cause and the anticipated length of the delay;
 - 26.2.2. The efforts taken to prevent or minimize the delay; and
 - 26.2.3. A description of any future deadlines which could be affected by the present or anticipated delay.
27. The City may satisfy the requirements of the previous paragraph by submitting to EPA a copy of the quarterly reports and any other reports that it submits to MDE on the City's progress in covering its finished reservoirs and installing treatment facilities at the reservoirs. The City shall submit the reports to EPA simultaneously with submitting them to MDE.
28. All reports shall be sent to:

Karen D. Johnson, Chief
Ground Water and Enforcement Branch (3WP22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Email address: Johnson.KarenD@epa.gov
29. Submission of progress reports shall not excuse the obligation of the Respondent to comply with this AOC.
30. The City shall issue a Public Notification, pursuant to and compliant with 40 C.F.R. § 141.201 et seq., which informs water consumers of the City's compliance with 40 C.F.R. § 141.714(c). The City shall issue the Public Notification within thirty (30) days of the execution of this Administrative Order on Consent. The Public Notification the City shall issue shall be the text of the 30-day drinking water notice in Attachment 2.
31. At any time before a compliance date in the Schedule, the City may petition EPA, in writing, for additional time to meet deadlines in the Schedule, should unexpected delays arise. In its petition the City shall provide EPA with a reasonable explanation of the delay, and shall demonstrate, to the satisfaction of EPA, that the City was unable to

anticipate or otherwise mitigate such a delay. The City shall submit any petition to EPA as soon as reasonably possible after it becomes aware of the need for additional time. The granting of additional time and the length of additional time granted, shall be at EPA's discretion. EPA will not unreasonably deny such requests for additional time to meet compliance deadlines in the Schedule, provided the City can demonstrate that the delay was unanticipated and unavoidable.

32. Within ten (10) days of the distribution of the Public Notification required by previous paragraph, the City shall provide to EPA a certification that the City has issued the Public Notification and also provide a copy of the Public Notification, in accordance with 40 C.F.R. § 141.31(d).
33. The City shall issue an annual Public Notification, pursuant to 40 C.F.R. § 141.204, informing its consumers of the ongoing use of uncovered reservoirs, and describing the City's progress towards completion of the Schedule. The annual Public Notification language the City shall use is shown in Attachment 2. Annual Public Notification shall continue until EPA terminates this AOC in writing. The annual Public Notification shall include minimum health effects language in 40 C.F.R. Part 141, Subpart Q, Appendix B. The City shall provide annual Public Notification, pursuant to 40 C.F.R. § 141.204(c)(1), by:
 - 33.1. Direct mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; and
 - 33.2. Any other method reasonably calculated to reach other persons regularly served by the System, if they would not normally be reached by the direct mail notice, such as persons who do not pay water bills (e.g. renters, apartment dwellers, university students, nursing home patients). Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g. large private employers, landlords, etc.), posting in public places or on the Internet, or delivery to community organizations.
34. Within ten (10) days of the distribution of the annual Public Notification required by previous paragraph, the City shall provide to EPA a certification that the City has issued the Public Notification and also provide a copy of the Public Notification, in accordance with 40 C.F.R. § 141.31(d).


GENERAL PROVISIONS

35. This Administrative Order on Consent does not waive, suspend, or modify the requirements of the SDWA, 42 U.S.C. §§ 300f-300j-26, and its implementing regulations found in 40 C.F.R. Part 141, which remain in full force and effect. Issuance of this AOC is not an election by the EPA to forgo any civil or criminal action otherwise authorized under the SDWA.
36. Violation of any term of this Administrative Order on Consent may subject the City to a civil penalty of up to \$37,500 per day of violation under Section 1414(g)(3) of the SDWA, 42 U.S.C. §§ 300g-3(g)(3), pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (also know as the "DCIA"), and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.
37. Compliance with the terms and conditions of this Order shall not in any way be construed to relieve the City of its obligation to comply with all applicable provision of federal, state, or local law, nor shall it be construed to be a determination of, any issue related to any federal, state, or local permit. Compliance with this Order shall not be a defense to any actions subsequently commenced for any violation of federal laws and regulations administered by EPA, and it is the responsibility of the City to comply with such laws and regulations. This Order does not constitute a waiver or modification of any of the requirements of the SDWA, all of which remain in full force and effect.
38. This Administrative Order on Consent is effective when signed by both Parties.

TERMINATION

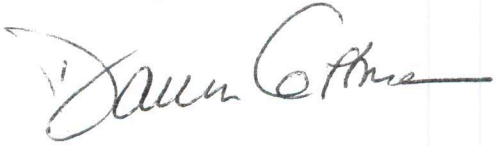
39. The obligations of this AOC shall terminate when EPA determines that the City has complied with the AOC's terms and conditions and EPA provides written notice to the City that the City has demonstrated, to the satisfaction of EPA, that the City has satisfactorily complied with the terms of this AOC.

FOR THE MAYOR AND CITY COUNCIL CITY OF BALTIMORE

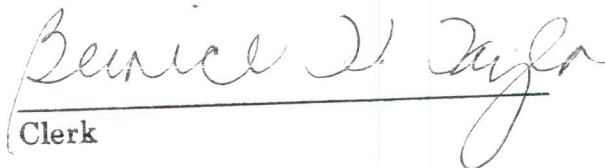

DAVID E. SCOTT, P.E.
Director of Public Works

6/3/10
Date

Approved as to form and
And Legal Sufficiency

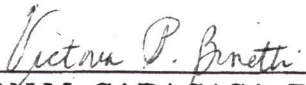

6/3/10
Date

Approved by the Board of Estimates


Clerk

JUN 23 2010
Date

SO ORDERED this 30 day of June, 2010.


for JON M. CAPACASA, Director
Water Protection Division
U.S. EPA, Region III

Attachment 1. City of Baltimore Open Reservoir Replacement Compliance Schedule

Project Name	Task Name	Start Date	Finish Date
Montebello No. 2 Reservoir	Study & Design		October 13, 2009
	Construction	December 21, 2009	June 30, 2014
Towson Reservoir	Study & Design		December 18, 2009
	Construction	June 14, 2010	May 31, 2013
Guilford Reservoir	Study & Design		September 3, 2013
	Construction	February 19, 2014	February 16, 2016
Druid UV Disinfection	Study		February 28, 2012
	Design		February 28, 2014
	Construction	July 1, 2014	June 25, 2018
Ashburton UV Disinfection	Study		January 10, 2013
	Design		May 29, 2014
	Construction	December 31, 2014	December 31, 2018

Drinking Water Notice

In January, 2006, the U.S. Environmental Protection Agency ("EPA") promulgated Long Term 2 Enhanced Surface Water Treatment Rule ("LT2") to protect public health from illness due to *Cryptosporidium* and other microbial pathogens found in sources of drinking water. EPA is concerned that uncovered finished water storage facilities can lead to degradation of water quality and health risks, and is therefore requiring public water systems to meet the conditions listed below.

By April 1, 2009, water systems were required to:

- (1) cover any uncovered finished drinking water storage facilities; or
- (2) treat the discharge from the uncovered finished water storage facility for viruses and other microbes using a protocol approved by the State; or
- (3) be in compliance with a State-approved schedule to meet conditions (1) and/or (2).

The City chose to comply with condition (3) above, which is to be in compliance by April 1, 2009 with a State-approved schedule for covering its five open drinking water storage facilities and/or installing treatment facilities that treat the drinking water prior to being discharged into the distribution system.

In accordance with condition (3) above, on January 12, 2009, the City submitted a proposed schedule (Schedule) to the Maryland Department of the Environment (MDE). The initial schedule was changed as requested by MDE and resubmitted on March 31, 2009. On April 1, 2009, the MDE approved the City's Schedule to cover or treat discharge from these uncovered finished water storage reservoirs by December 31, 2018. The City currently plans to replace three of the reservoirs with tanks, and to install treatment facilities at the other two reservoirs.

On July 20, 2009, the EPA issued a Notice of Violation because the City's Schedule should have been incorporated into an enforceable agreement by April 1, 2009. The City contends it did not receive MDE's proposed settlement agreement (Settlement Agreement) until May 8, 2009. On September 2, 2009, the City signed the Settlement Agreement with the MDE, which incorporated the Schedule that MDE had approved on April 1, 2009.

The EPA maintains that the City failed to comply with LT2 because it failed to sign an enforceable agreement for its Schedule by the April 1, 2009 deadline. Such a violation of drinking water regulations requires the City to issue a notice to the public for this violation of the LT2.

What does this mean?

An uncovered reservoir used to store treated drinking water is susceptible to contamination from animals, such as birds or insects. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause such symptoms as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not cause only by organism in drinking water, but also by other factors.

What Should I do?

This situation is not an emergency; you would have been notified immediately if it had been. There is nothing you need to do. If you have specific health concerns about yourself or persons who may be at risk, such as young children, elderly residents, or persons with severely compromised immune systems (those undergoing chemotherapy, those who are HIV-positive, or have other immune system problems) you may wish to consult your health care provider. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1(800)426-4791.

You do not need to boil your water or take other corrective actions. If a situation arises where the water is no longer safe to drink, you will be notified within 24 hours.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or by distributing copies by hand or mail.

Esta nota contiene información importante sobre el agua potable. Hable con alguien que la entienda o que se la pueda traducir.

What is being done by the City?

The City is continuing to move toward implementation of cover and treatment options for each of the five reservoirs in accordance with the following Schedule.

- 1) Towson Finished Water Reservoir projected construction substantial completion – May 31, 2013.
- 2) Montebello WFP 2 Finished Water Reservoir projected construction substantial completion – June 30, 2014.
- 3) Guilford Finished Water Reservoir projected construction substantial completion – February 16, 2016.
- 4) Druid Lake projected construction substantial completion – June 25, 2018.
- 5) Ashburton Lake projected construction substantial completion – December 31, 2018.

The City of Baltimore routinely monitors the water quality of the entire System and has implemented enhanced disinfection efforts at each facility to provide an interim public health and safety protection level until the permanent improvements are completed.

For more information, including a copy of the Schedule for bringing the City's uncovered reservoirs into compliance with the LT2, please contact the Baltimore Department of Public Works at (410) 396-3500 or write to Mr. David Scott, P.E., Director of Public Works, 600 Abel Wolman Municipal Building, Baltimore, Maryland 21202.

This notice is being sent to you by the Baltimore Department of Public Works. Public Water System ID# MD0300002,

Sent: DD/MM/YYYY

DRAFT CCR PUBLIC NOTICE NARRATIVE

For the 2009 Water Quality Report

Water systems that store finished drinking water in uncovered reservoirs are required to take one of the following courses of action by April 1, 2009: Cover these reservoirs, treat the discharge from these reservoirs, or comply with a state-approved schedule to cover the reservoirs or provide treatment. The City currently has five uncovered finished water reservoirs. The EPA maintains that the City failed to comply with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) because it failed to sign an enforceable agreement on its schedule to cover or provide treatment for its five uncovered reservoirs by the April 1, 2009 deadline. Such a violation of the drinking water regulations requires the City to issue a notice to the public for this violation.

The City is continuing to move toward implementation of coverage and treatment options for each of the five reservoirs in accordance with the following schedule.

- 1) Towson Finished Water Reservoir projected construction substantial completion – May 31, 2013.
- 2) Montebello WFP 2 Finished Water Reservoir projected construction substantial completion – June 30, 2014.
- 3) Guilford Finished Water Reservoir projected construction substantial completion – February 16, 2016.
- 4) Druid Lake projected construction substantial completion – June 25, 2018.
- 5) Ashburton Lake projected construction substantial completion – December 31, 2018.

An uncovered reservoir used to store treated drinking water is susceptible to contamination from animals, such as birds or insects. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause such symptoms as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not caused only by organisms in drinking water, but also by other factors.

Some people may be more vulnerable to contaminants in drinking water than the general population. Immunocompromised people such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly and infants can be particularly at risk from infections. These people should seek advice about drinking water from their healthcare providers. EPA/CDC guideline on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline at 1 (800) 426-4791. If you have specific health concerns, consult your doctor.

DRAFT CCR PUBLIC NOTICE NARRATIVE

For the Annual Water Quality Report

Water systems with uncovered finished water reservoirs are required to cover these reservoirs, treat the discharge from these reservoirs, or be in compliance with a state-approved schedule to cover the reservoirs or provide treatment by April 1, 2009. The City currently has five finished water reservoirs that are uncovered. The City is continuing to move toward implementation of coverage and treatment options for each of the five reservoirs in accordance with the following schedule.

- 1) Towson Finished Water Reservoir projected construction substantial completion – May 31, 2013.
- 2) Montebello WFP 2 Finished Water Reservoir projected construction substantial completion – June 30, 2014.
- 3) Guilford Finished Water Reservoir projected construction substantial completion – February 16, 2016.
- 4) Druid Lake projected construction substantial completion – June 25, 2018.
- 5) Ashburton Lake projected construction substantial completion – December 31, 2018.

An uncovered reservoir used to store treated drinking water is susceptible to contamination from animals, such as birds or insects. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause such symptoms as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not caused only by organisms in drinking water, but also by other factors.

Some people may be more vulnerable to contaminants in drinking water than the general population. Immunocompromised people such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly and infants can be particularly at risk from infections. These people should seek advice about drinking water from their healthcare providers. EPA/CDC guideline on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline at 1 (800) 426-4791. If you have specific health concerns, consult your doctor.